



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,137	09/16/2005	Nicholas Andrew Murray Drought	920602-99274	4529

23644 7590 04/04/2006
BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER

KUMAR, RAKESH

ART UNIT PAPER NUMBER

3654

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/531,137	Applicant(s) DROUGHT ET AL.	
	Examiner Rakesh Kumar	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/20/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "20" has been used to designate both a flared extension (Specification page 4 line 15) and a tray (Specification page 4 line 17). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The specifications (page 4 line 9) disclose a tray element as being member (1), the specifications (page 4 line 17) also disclose the tray element as being member (20), it is suggested that the same name for each element be used throughout the disclosure. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Referring to claim 10. The applicant discloses the limitation “so that opening and closing of the lid both ejects tablet” on line 2. It is unclear whether the process of both opening and closing the lid releases a tablet from the dispenser or simply a tablet is released when the lid is closed. It is generally understood and broadly construed by the Examiner, to mean a tablet is released when the lid is closed. Appropriate action is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4,7,8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by George et al. (U.S. Patent Number 6,155,454).

8. Referring to claim 1. George discloses a pill dispenser releasing apparatus (Figure 1D) for releasing tablets (22) from a blister pack (28) containing a plurality of tablets (22), each held in a respective blister (20),

the apparatus comprising receiving means (10) for receiving the blister (20) so that the pack is moveable on the receiving means(10),

and an abutment member (18) moveable into engagement with the blister (20) in registry therewith so as to eject a tablet (22) from that blister (20),

wherein the apparatus includes indexing means (moving member 10 into engagement with member 48; Figure 1D) for moving a blister pack (28) on the receiving means (10) to bring each of a succession of blisters (20) in turn into registry with the abutment member (18).

9. Referring to claim 2. George discloses a pill dispenser releasing apparatus (Figure 1D) wherein the apparatus includes an actuating member (14), so linked to the indexing means (connected to member 48 through member 12) and the abutment member (18) as to operate both.

10. Referring to claims 3 and 10. George discloses a pill dispenser releasing apparatus (Figure 1D) wherein the actuating member (14) is so linked to the indexing

means (48) and the abutment member (18) as to operate both by moving the actuating member (14) through a single operating stroke (a stroke of the motion of the plunger causing ejection of the tablet). The actuating member (14) is a lid, which releases a tablet when it is closed.

11. Referring to claim 4. George discloses a pill dispenser releasing apparatus (Figure 1D) wherein the actuating member (14) is pivotally mounted on the receiving means (member 14 connected to member 12 is in engagement with member 10), the abutment member (18) forming part of the actuating member (14).

12. Referring to claim 7. George discloses a pill dispenser releasing apparatus (Figure 1D) wherein the receiving means (10) comprises a tray having an end opening (see open end of member 12 through which member 10 exits) through which, in use, a blister pack (28) is advanced in a step-wise fashion by the indexing means (48).

13. Referring to claim 8. George discloses a pill dispenser releasing apparatus (Figure 1D) wherein the tray (tray portion of member 10 holding the blister pack) includes a further opening (see indentations 50 housing each blister in the blister pack; Figure 1D) through which a blister pack may be inserted into the tray (Figure 1D and 6A).

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over George as applied to claim 8 above, and further in view of George et al. (U.S. Patent Number 5,909,822).

16. Referring to claim 9. George (5,909,822) discloses a pill dispenser releasing apparatus (Figure 1A) wherein the tray (112; Figure 9A) is flared (see right hand side where member 12 extends beyond the bottom tray; Figure 1A) at the further opening to facilitate insertion of a blister pack (10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of George (5,155,454) and include a tray which is flared facilitate the insertion of a blister pack into the dispensing apparatus as taught by George (5,909,822) because the blister park would be easier to load into the dispenser.

Allowable Subject Matter

17. Claim 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/531,137
Art Unit: 3654

Page 8

RK
March 31, 2006

Kathy Matecki
KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600